



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Continuation

Reissue Patent Application of:

Uber, III et al. : Group Art Unit: 3737
Appln. No.: 09/545,582 : Examiner: B. Casler
Filed: April 7, 2000 :
Title: PATIENT INFUSION SYSTEM FOR USE WITH MRI

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May 21, 2001

AMENDMENT

Hon. Commissioner
of Patents and Trademarks
Washington, D.C. 20231

Sir:

The Applicant respectfully notifies the Examiner that the related litigations referred to in the Notice or Related Litigation filed on September 7, 2000 have concluded. On September 26, 2000, the International Trade Commission ("ITC") determined that U.S. Patent No. Re. 36,648 was invalid under 37 C.F.R. § 1.175(b)(1) for lack of a supplemental reissue declaration directed to overclaiming and inventorship. As a result of the determination of invalidity of the '648 patent by Administrative Law judge Luckern at the ITC, the two litigations were terminated. A reissue application was filed for the '648 patent on November 16, 2000. That reissue application bears Serial No. 09/027,852.¹

¹ The Applicant respectfully informs the Examiner that an Information Disclosure Statement submitting the prior art identified by the Defendants during the ITC investigation is being prepared and will be filed as soon as the Applicant receives copies of the references that are not subject to the Protective Order in that litigation.

In view of the termination of the litigations, the Applicant respectfully requests that this application be treated as a reissue application not involving litigation and that the file be marked to that effect.

This amendment is being filed in response to the Office Action mailed on March 21, 2001. That Office Action set a shortened response date that was not extendable under 37 C.F.R. § 1.136(a) due to the related litigations identified by the Applicant. In view of the fact that the litigations have been terminated and that this application is no longer eligible for special, accelerated status, it is respectfully requested either that a one month extension of time be accepted under 37 C.F.R. § 1.136(a) or that the normal three-month response period afforded reissue applications not involving litigation be applied to this application.

It is believed that this response is being timely filed. However, should the Examiner hold the Applicant to the original time period, the Applicant respectfully requests a one month extension of time under the provisions of 37 C.F.R. § 1.136(b).

The date for responding to the Office Action having been properly extended to May 21, 2001, the Applicant respectfully requests that the above-identified reissue application be amended as follows:

IN THE TITLE PAGE:

In the Office Action dated March 21, 2001, the Examiner noted that, in the Preliminary Amendment (paper #3), the Applicant added patent references to the title page pursuant to the Certificate of Correction dated February 25, 1997. The Examiner noted that the changes must be entered in the reissue application without bracketing or underlining and requested correction of the amendment.